

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

MATT JENKINS,	)	Case No. 3:11-CV-1191
	)	
Plaintiff,	)	Judge: David A. Katz
v.	)	
	)	
UNITED COLLECTION BUREAU, INC., et al,	)	
	)	
Defendants.	)	
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CITIBANK (South Dakota), N.A.,	)	
	)	
Counterclaim Plaintiff,	)	
v.	)	
	)	
MATT JENKINS, et al.	)	
	)	
Counterclaim Defendants.	)	
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**MOTION TO DISMISS COUNTERCLAIM**

Counterclaim Defendant, Matt Jenkins, moves to dismiss this counterclaim under Rule 12(b)(1) of the Federal Rules of Civil Procedure and, as grounds therefore, shows unto this Court that it lacks subject matter jurisdiction. More specifically,

1. The counterclaim is permissive and not compulsory because it does not arise from the same transaction or occurrence as the plaintiff's claim.

2. It therefore lacks the independent basis therefore required in order for this Court to exercise subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a). This motion is based on the pleadings and papers on file in this action, the motion itself, the

accompanying Brief in Support of Motion to Dismiss Counterclaim, and whatever evidence and argument may be presented attendant to this motion.

WHEREFORE, Counterclaim Defendant, Matt Jenkins respectfully moves the Court to dismiss the counterclaim for lack of subject matter jurisdiction, and for such other and further relief as the Court deems proper.

Dated: July 18, 2011

Respectfully submitted,

/s/ W. Andrew LeLiever  
W. Andrew LeLiever  
N.C. State Bar No: 37384  
LELIEVER LAW, P.A.  
5 W. Hargett St., Ste. 210  
Raleigh, NC 27601  
Telephone: 919-906-4687  
Email: [lelieverlaw@hotmail.com](mailto:lelieverlaw@hotmail.com)  
*Counsel for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 18, 2011, a copy of foregoing *Motion to Dismiss* was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.

By: /s/ W. Andrew LeLiever  
W. Andrew LeLiever  
N.C. State Bar No: 37384  
LELIEVER LAW, P.A.  
5 W. Hargett St., Ste. 210  
Raleigh, NC 27601  
Telephone: 919-906-4687  
Email: [lelieverlaw@hotmail.com](mailto:lelieverlaw@hotmail.com)  
*Counsel for Plaintiff*